

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

USA TRUCK, INC.

Plaintiff

v.

SULLAIR, LLC; and BRIDGESTONE
AMERICAS TIRE OPERATIONS, LLC

Defendants

CIVIL ACTION FILE

NO.: 3:20-cv-00075-CDL

USA TRUCK, INC.'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff USA TRUCK, INC., by and through the undersigned counsel, and pursuant to F.R.C.P. 56, files this Motion for Partial Summary Judgment, respectfully showing the Court as follows:

1.

Sullair designed the subject trailer (the “Sullair Trailer”), which weighed over 4,400 pounds, with “highway towable running gear” and intended it to be towed on public roadways at highway speeds without brakes (as it was being used at the time of the accident).

2.

The Federal Motor Carrier Safety Regulations (“FMCSRs”), which have been adopted by Georgia, clearly dictate that trailer brakes are necessary for the safe towing of trailers, such as the Sullair Trailer, that weigh over 3,000 pounds.

3.

Sullair’s engineers have concluded that trailer brakes were necessary for the safe towing of Sullair’s trailers.

4.

Sullair's expert admits that it is generally accepted in the engineering world that, consistent with the FMCSRs, trailer brakes are required for the safe towing of trailers weighing more than 3,000 pounds.

5.

From a physics standpoint, the Sullair Trailer is no different than any other trailer.

6.

Sullair neither has, nor has it ever seen, any evidence to suggest that the brakeless Sullair Trailer was safe to tow on public roadways at highway speeds, and it has no knowledge that it ever bothered to look at the issue.

7.

Accordingly, USA Truck respectfully requests that this Court grant partial summary judgment to USA Truck by entering an Order concluding as a matter of law that Sullair's 4,400 pound brakeless trailer was unsafe to be towed on public highways at highway speeds, as it was being used at the time of the subject accident.

8.

A proposed Order granting this Motion is submitted herewith.

This 1st day of December, 2021.

MCMICKLE, KUREY & BRANCH, LLP

By: /s/ Scott W. McMickle

SCOTT W. MCMICKLE, GA Bar No. 497779

MICHAEL P. JOHNSON, GA Bar No. 395055

Attorneys for Plaintiff

217 Roswell Street, Suite 200

Alpharetta, GA 30009

Telephone: (678) 824-7800

Facsimile: (678) 824-7801

swm@mkbawfirm.com; mjohnson@mkbawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed **USA TRUCK, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** via the Court's CM/ECF e-filing system to the following counsel of record:

Terry O. Brantley, Esq.
Alex McDonald, Esq.
terry.brantley@swiftcurrie.com
alex.mcdonald@swiftcurrie.com
SWIFT, CURRIE, McGHEE & HIERS, LLP
1355 Peachtree Street, N.E., Suite 300
Atlanta, GA 30309
Attorney for Defendant
Sullair, LLC

Caroline Johnson Tanner, Esq.
Jonathan Spital, Esq.
caroline.tanner@hklaw.com
Jonathan.spital@hklaw.com
Holland & Knight LLP
One Regions Plaza, Suite 1800
1180 West Peachtree Street, NW
Atlanta, GA 30309-3407
Attorney for Defendant
Bridgestone Americas Tire Operations, LLC

This 1st day of December, 2021.

/s/Scott W. McMickle
SCOTT W. MCMICKLE
For the Firm

217 Roswell Street, Suite 200
Alpharetta, GA 30009
Telephone: (678) 824-7800
Facsimile: (678) 824-7801
swm@mkblawfirm.com
mjohnson@mkblawfirm.com